

PARTIES

3. Petitioner Bruce Tenuta is a resident and domiciliary of Illinois. From January 2017 to his termination in August 31, 2018, he was an employee of Respondent.

4. Respondent International Business Machines Corporation ("IBM") is incorporated and maintains its principal place of business in New York.

JURISDICTION AND VENUE

5. This Court also has jurisdiction pursuant to 28 U.S.C. §1331 as the underlying claim sounds in federal law, specifically the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621, *et seq.* This Court also has jurisdiction over these proceedings pursuant to 29 U.S.C. §1331 as this action arises under the Federal Arbitration Act ("FAA"), 9 U.S.C. §1, *et seq.* 8.

6. This Court also has jurisdiction pursuant to 28 U.S.C. §1332 as there is complete diversity of the parties and the amount in controversy is in excess of \$75,000.

7. Venue is proper in this District pursuant to 9 U.S.C. § 10 and 28 U.S.C. § 1391 as the arbitration award was made in the Northern District of Illinois.

SUMMARY OF FACTS AND PROCEEDINGS

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. This discriminatory scheme is detailed in the Second Amended Complaint in the matter of Rusis et al. v. International Business Machines Corp., C.A. No. 18-cv-08434 (S.D.N.Y.) (Dkt. 179), a class and collective action pending in the Southern

District of New York, brought under the Age Discrimination in Employment Act (“ADEA”), as amended, 29 U.S.C. § 621 *et seq.* Briefly stated, in Rusis, the plaintiffs allege that IBM has pushed out thousands of older workers over a several year period, while hiring younger workers (which the company often refers to as “Early Professional Hires” or “New Collar” workers), in order to better compete with newer technology companies, such as Google, Facebook, Amazon, and others.

11. Indeed, IBM has been investigated for age discrimination by the Equal Employment Opportunity Commission (“EEOC”). Following a multi-year investigation, on August 31, 2020, the EEOC issued a classwide determination in which it found reasonable cause to believe that IBM discriminated against older employees during the period 2013 to 2018. The EEOC stated in its determination letter that its conclusion was supported by dozens of interviews it had conducted across the company, as well as analysis of data, and it rejected IBM’s attempt to justify and defend the layoffs of the 58 charging parties, whose claims had been consolidated for investigation, through individualized explanations.

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

17. In September 2021, Petitioner's counsel became aware of a collection of 68 documents that IBM had recently produced in another federal court action challenging age discrimination. Another federal court that has described these documents has noted that "***on their face appear to show an effort to remove older employees in favor of younger employees***," Lohnn v. International Business Machines Corp., 2022 WL 36420, at *6 (S.D.N.Y. Jan. 4, 2020) (emphasis added). As described in Lohnn, these documents included emails between IBM's highest level executives referring to IBM's older workers as "dinobabies" and discussed that they needed to be made an "extinct species." See Making 'Dinobabies' Extinct: IBM's Push for a Younger Work Force, New York Times, Feb. 12, 2022, <https://www.nytimes.com/2022/02/12/business/economy/ibm-age-discrimination.html>. An order in a more recent case, Schenfeld v. International Business Machines Corp., Civ. Act. No. MID-L-7334-18, Order (N.J. Super. Ct. June 9, 2022), has made clear that IBM's former CEO Ginni Rometty and former Senior Vice President for Human Resources Diane Gherson participated in these communications. The documents also include emails where IBM's executive management openly discussed plans to increase the percentage of millennial employees, by using several methods to push out older workers.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

WHEREFORE, Petitioner requests that this Court enter the following relief:

1. Vacate the Order [REDACTED]
(Exhibit A).
2. Remand to the Arbitrator for further proceedings consistent with this order.
3. Any other relief to which Petitioner may be entitled.

Respectfully submitted,

BRUCE TENUTA,

By his attorneys,

/s/ Bradley Manewith

Bradley Manewith, IARDC No. 6280535

Siegel & Dolan, Ltd.

150 N Upper Wacker Dr Ste 3000

Chicago, IL 60606

(312) 878-3210

bmanewith@msiegellaw.com

Shannon Liss-Riordan,

pro hoc vice forthcoming

Matthew Patton,

pro hoc vice forthcoming

LICHTEN & LISS-RIORDAN, P.C.

729 Boylston Street, Suite 2000

Boston, MA 02116

(617) 994-5800

sliss@llrlaw.com

mpatton@llrlaw.com

Dated: November 3, 2022

CERTIFICATE OF SERVICE

I, Bradley Manewith, hereby certify that a true and accurate copy of the foregoing document will be served on counsel for Respondent together with the Petition to Vacate filed in this matter.

/s/ Bradley Manewith
Bradley Manewith